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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5711 OF 2005

Ratnagiri Municipal Council ... Petitioner

V/s.

Shri Gajanan Vishnu Shinde ... Respondent

Mr.C.R. Sonawane for Petitioner

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **SEPTEMBER 1, 2005**

P.C.:

. The Petition has been filed challenging the order of the Industrial Court passed in a complaint filed under Items 6 and 9 of Schedule IV of the MRTU & PULP Act. The Industrial Court has found that the complainant, who is the respondent-workman, had obtained an award in a Reference when his services were terminated at an earlier point of time and that he was continuously working with the Petitioner from 22.12.1986. The Labour Court in that Reference (IDA) No.65 of 1988 had reinstated the workman with continuity of service. Accordingly, the Petitioner absorbed him in service but not on a permanent basis. This complaint has been filed by the respodnent for making him permanent in empoyment claiming that the petitioner committed an unfair labour prctice under Item 6 of

Schedule IV of the MRTU & PULP Act. The Industrial Court has observed that the respondent has refused to make him permanent as he had no power to sanction the post. The Industrial Court has further observed that the Petitioner had not placed any material on record to indicate that a proposal had been made to the government for sanctioning this post and that the government had either disapproved such sanction or that the matter was still pending with the government. In such circumstances, I do not see any reason to interfere with the impugned order.

2. The learned Assistant Government Pleader appearing for the Petitioner relies on the judgment of the Supreme Court in the case of *A.Umarani v/s. Registrar, Cooperative Societies & Ors*., **(2004) 7 SCC 112.** In this judgment the question involved was regularisation of irregular appointees in government posts. In my view, this judgment would have no application at all. The provisions of the MRTU & PULP Act indicate that any continuance of an employee as a badli or casual workman for years together, with the object to him as such and deprive him of benefits of permanency amounts to unfair labour practice. The Industrial Court has observed as aforesaid that there is no material on record to show that the Petitioner had

submitted any proposal for sanctioning the respondent's post. In such circumstances, in my view, there is no infirmity in the order of the Industrial Court. Petition rejected.